

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1151**

**Introduced by Assembly Member Dymally**

February 21, 2003

---

---

An act to amend Section 911.4 of the Government Code, to amend Section 1527.6 of the Health and Safety Code, and to amend ~~Section 827~~ *Sections 827 and 16501.1* of, and to add Section 16000.1 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as amended, Dymally. Foster care.

Existing law requires a claim for personal injury against a public entity, which includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, or against an employee of a public entity, to be presented not later than 6 months after accrual of the cause of action. Existing law provides that when a claim is not filed within the 6-month period, an application for leave to present the claim within a reasonable time not to exceed one year after the accrual of the cause of action may be filed in accordance with specified provisions. Existing law provides that the time during which a person is detained or adjudged a dependent child of the juvenile court pursuant to certain provisions of law shall, under certain circumstances, not be counted in that one-year period.

This bill would provide that the time during which a minor is adjudged to be a dependent child of the juvenile court, pursuant to certain provisions of law, shall not be counted in that one-year period if the minor is without a guardian ad litem or conservator for purposes of filing civil actions.

Existing law establishes the Foster Family Home and Small Family Home Insurance Fund within the State Department of Social Services to pay on behalf of foster family homes and small family homes, claims of foster children, their parents, guardians, and guardians ad litem resulting from occurrences peculiar to the foster-care relationship and the provision of foster-care services. Existing law requires that any claim against the fund filed by a foster parent or a 3rd party be submitted to the fund within the applicable period of limitation for the appropriate civil action underlying the claim. Existing law provides that if a person entitled to bring an action under specified laws is, at the time the cause of action accrued, either a minor or insane, the time of this disability is not part of the time limited for the commencement of the action.

This bill would provide that a claim against the fund filed by a foster parent or 3rd party is subject to the latter provision described above that extends the limitation of time for the commencement of an action for a minor.

Under existing law, juvenile court records are generally confidential, with certain limited exceptions. Existing law requires the release to the public of juvenile case files that pertain to a deceased dependent child of the juvenile court, pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Existing law authorizes the presiding judge of the juvenile court to issue an order prohibiting or limiting access to the juvenile case file under certain circumstances.

This bill would provide that after the death of a minor foster child ~~any member of the public may inquire and shall receive~~, designated information regarding that child ~~without having to obtain a court order. The bill would provide that this information is a public record and is not confidential shall be subject to disclosure pursuant to the California Public Records Act.~~

Existing law requires that if a child is removed from the physical custody of his or her parents, preferential consideration be given to a request by a relative of the child for placement of the child with the relative.



Existing law sets forth the policy of the state that all children placed in foster care have certain rights, and requires social workers and facilities providing social services to children in foster care to provide those children with information regarding those rights.

This bill would declare legislative intent ~~to abrogate the holding that nothing in the decision of the California Court of Appeal in County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R. (2002) 102 Cal.App.4th 627, to the extent that decision affected shall be held to change the standards of liability or immunity for injuries to children in protective custody, and to reinstate the judicial interpretation of liability and immunity as it they existed prior to that decision, and to confirm the state's duty to comply with all requirements under certain federal law that are relevant to the protection and welfare of children in foster care.~~

*Existing law relating to the establishment of a case plan for a child in foster care expresses a policy that these children be in a safe home or out-of-home setting.*

*This bill would specify that "safe" for these purposes means a home or setting that is free from abuse, as described in specified existing law. The bill would make a legislative finding that the definition of safe contained in the bill is declaratory of existing law.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 Duty to Foster Children Reaffirmation Act.

3 SEC. 2. Section 911.4 of the Government Code is amended to  
4 read:

5 911.4. (a) When a claim that is required by Section 911.2 to  
6 be presented not later than six months after the accrual of the cause  
7 of action is not presented within that time, a written application  
8 may be made to the public entity for leave to present that claim.

9 (b) The application shall be presented to the public entity as  
10 provided in Article 2 (commencing with Section 915) within a  
11 reasonable time not to exceed one year after the accrual of the  
12 cause of action and shall state the reason for the delay in presenting  
13 the claim. The proposed claim shall be attached to the application.

1 (c) In computing the one-year period under subdivision (b), the  
2 following shall apply:

3 (1) The time during which the person who sustained the alleged  
4 injury, damage, or loss as a minor shall be counted, but the time  
5 during which he or she is mentally incapacitated and does not have  
6 a guardian or conservator of his or her person shall not be counted.

7 (2) The time shall not be counted during which the person is  
8 detained or adjudged to be a dependent child of the juvenile court  
9 under the Arnold-Kennick Juvenile Court Law (Chapter 2  
10 (commencing with Section 200) of Part 1 of Division 2 of the  
11 Welfare and Institutions Code), if both of the following conditions  
12 exist:

13 (A) The person is in the custody and control of an agency of the  
14 public entity to which a claim is to be presented.

15 (B) The public entity or its agency having custody and control  
16 of the minor is required by statute or other law to make a report of  
17 injury, abuse, or neglect to either the juvenile court or the minor's  
18 attorney, and that entity or its agency fails to make this report  
19 within the time required by the statute or other enactment, with this  
20 time period to commence on the date on which the public entity or  
21 its agency becomes aware of the injury, neglect, or abuse. In  
22 circumstances where the public entity or its agency makes a late  
23 report, the claim period shall be tolled for the period of the delay  
24 caused by the failure to make a timely report.

25 (3) The time shall not be counted during which a minor is  
26 adjudged to be a dependent child of the juvenile court under the  
27 Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing  
28 with Section 200) of Part 1 of Division 2 of the Welfare and  
29 Institutions Code), if the minor is without a guardian ad litem or  
30 conservator for purposes of filing civil actions.

31 SEC. 3. Section 1527.6 of the Health and Safety Code is  
32 amended to read:

33 1527.6. (a) Any claim against the fund shall be filed with the  
34 fund in accordance with claims procedures and on forms  
35 prescribed by the State Department of Social Services or its  
36 designated contract agency.

37 (b) Any claim against the fund filed by a foster parent or a third  
38 party shall be submitted to the fund within the applicable period  
39 of limitations for the appropriate civil action underlying the claim,  
40 subject to Section 352 of the Code of Civil Procedure as that

1 section applies to a minor. If a claim is not submitted to the fund  
2 within the applicable time, there shall be no recourse against the  
3 fund.

4 (c) The department shall approve or reject a claim within 180  
5 days after it is presented.

6 (d) No person may bring a civil action against a foster parent  
7 for which the fund is liable unless that person has first filed a claim  
8 against the fund and the claim has been rejected, or the claim has  
9 been filed, approved, and paid, and damages in excess of the  
10 payment are claimed.

11 SEC. 4. Section 827 of the Welfare and Institutions Code is  
12 amended to read:

13 827. (a) (1) Except as provided in Section 828, a case file  
14 may be inspected only by the following:

15 (A) Court personnel.

16 (B) The district attorney, a city attorney, or a city prosecutor  
17 authorized to prosecute criminal or juvenile cases under state law.

18 (C) The minor who is the subject of the proceeding.

19 (D) His or her parents or guardian.

20 (E) The attorneys for the parties, judges, referees, and other  
21 hearing officers, probation officers, and law enforcement officers  
22 who are actively participating in criminal or juvenile proceedings  
23 involving the minor.

24 (F) The superintendent or designee of the school district where  
25 the minor is enrolled or attending school.

26 (G) Members of the agencies authorized to receive mandated  
27 reports of suspected child abuse or neglect under Section 11165.9  
28 of the Penal Code.

29 (H) The State Department of Social Services to carry out its  
30 duties pursuant to Division 9 (commencing with Section 10000),  
31 and Part 5 (commencing with Section 7900) of Division 12 of the  
32 Family Code, to oversee and monitor county child welfare  
33 agencies, children in foster care or receiving foster care assistance,  
34 and out-of-state placements.

35 (I) To authorized legal staff or special investigators who are  
36 peace officers who are employed by, or who are authorized  
37 representatives of, the State Department of Social Services, as  
38 necessary to the performance of their duties to inspect, license, and  
39 investigate community care facilities, and to ensure that the  
40 standards of care and services provided in those facilities are

1 adequate and appropriate and to ascertain compliance with the  
2 rules and regulations to which the facilities are subject. The  
3 confidential information shall remain confidential except for  
4 purposes of inspection, licensing, or investigation pursuant to  
5 Chapter 3 (commencing with Section 1500) and Chapter 3.4  
6 (commencing with Section 1596.70) of Division 2 of the Health  
7 and Safety Code, or a criminal, civil, or administrative proceeding  
8 in relation thereto. The confidential information may be used by  
9 the State Department of Social Services in a criminal, civil, or  
10 administrative proceeding. The confidential information shall be  
11 available only to the judge or hearing officer and to the parties to  
12 the case. Names that are confidential shall be listed in attachments  
13 separate to the general pleadings. The confidential information  
14 shall be sealed after the conclusion of the criminal, civil, or  
15 administrative hearings, and shall not subsequently be released  
16 except in accordance with this subdivision. If the confidential  
17 information does not result in a criminal, civil, or administrative  
18 proceeding, it shall be sealed after the State Department of Social  
19 Services decides that no further action will be taken in the matter  
20 of suspected licensing violations. Except as otherwise provided in  
21 this subdivision, confidential information in the possession of the  
22 State Department of Social Services shall not contain the name of  
23 the minor.

24 (J) Members of children's multidisciplinary teams, persons or  
25 agencies providing treatment or supervision of the minor.

26 (K) A judge, commissioner, or other hearing officer assigned  
27 to a family law case with issues concerning custody or visitation,  
28 or both, involving the minor, and the following persons, if actively  
29 participating in the family law case: a family court mediator  
30 assigned to a case involving the minor pursuant to Article 1  
31 (commencing with Section 3160) of Chapter 11 of Part 2 of  
32 Division 8 of the Family Code, a court-appointed evaluator or a  
33 person conducting a court-connected child custody evaluation,  
34 investigation, or assessment pursuant to Section 3118 of the  
35 Family Code, and counsel appointed for the minor in the family  
36 law case pursuant to Section 3150 of the Family Code. Prior to  
37 allowing counsel appointed for the minor in the family law case to  
38 inspect the file, the court clerk may require counsel to provide a  
39 certified copy of the court order appointing him or her as the  
40 minor's counsel.



1 (L) Juvenile justice commissions as established under Section  
2 225. The confidentiality provisions of Section 10850 shall apply  
3 to a juvenile justice commission and its members.

4 (M) Any other person who may be designated by court order  
5 of the judge of the juvenile court upon filing a petition.

6 (2) (A) Notwithstanding any other law and subject to  
7 subparagraph (A) of paragraph (3), juvenile case files, except  
8 those relating to matters within the jurisdiction of the court  
9 pursuant to Section 601 or 602, that pertain to a deceased child who  
10 was within the jurisdiction of the juvenile court pursuant to Section  
11 300, shall be released to the public pursuant to an order by the  
12 juvenile court after a petition has been filed and interested parties  
13 have been afforded an opportunity to file an objection. Any  
14 information relating to another child or that could identify another  
15 child, except for information about the deceased, shall be redacted  
16 from the juvenile case file prior to release, unless a specific order  
17 is made by the juvenile court to the contrary. Except as provided  
18 in this paragraph, the presiding judge of the juvenile court may  
19 issue an order prohibiting or limiting access to the juvenile case  
20 file, or any portion thereof, of a deceased child only upon a  
21 showing that release of the juvenile case file or any portion thereof  
22 is detrimental to the safety, protection, or physical, or emotional  
23 well-being of another child who is directly or indirectly connected  
24 to the juvenile case that is the subject of the petition.

25 ~~(B) Notwithstanding subparagraph (A), after the death of a~~  
26 ~~foster child who is a minor, any member of the public may inquire~~  
27 ~~and shall receive information regarding the child's name, date of~~  
28 ~~birth, and cause of death, without having to obtain a court order.~~  
29 ~~Notwithstanding any other law, this information shall be a public~~  
30 ~~record and shall not be confidential.~~

31 *(B) Notwithstanding subparagraph (A), after the death of the*  
32 *foster child who is a minor, the name, date of birth, and date of*  
33 *death of the child shall be subject to disclosure pursuant to the*  
34 *California Public Records Act (Chapter 3.5 (commencing with*  
35 *Section 6250) of Division 7 of Title 1 of the Government Code).*

36 (3) Access to juvenile case files pertaining to matters within the  
37 jurisdiction of the juvenile court pursuant to Section 300 shall be  
38 limited as follows:

39 (A) If a juvenile case file, or any portion thereof, is privileged  
40 or confidential pursuant to any other state law or federal law or



1 regulation, the requirements of that state law or federal law or  
2 regulation prohibiting or limiting release of the juvenile case file  
3 or any portions thereof shall prevail. Unless a person is listed in  
4 subparagraphs (A) to (L), inclusive, of paragraph (1) and is  
5 entitled to access under the other state law or federal law or  
6 regulation without a court order, all those seeking access, pursuant  
7 to other authorization, to portions of, or information relating to the  
8 contents of, juvenile case files protected under another state law  
9 or federal law or regulation, shall petition the juvenile court. The  
10 juvenile court may only release the portion of, or information  
11 relating to the contents of, juvenile case files protected by another  
12 state law or federal law or regulation if disclosure is not  
13 detrimental to the safety, protection, or physical or emotional  
14 well-being of a child who is directly or indirectly connected to the  
15 juvenile case that is the subject of the petition. This paragraph shall  
16 not be construed to limit the ability of the juvenile court to carry  
17 out its duties in conducting juvenile court proceedings.

18 (B) Prior to the release of the juvenile case file or any portion  
19 thereof, the court shall afford due process, including a notice of  
20 and an opportunity to file an objection to the release of the record  
21 or report to all interested parties.

22 (4) A juvenile case file, any portion thereof, and information  
23 relating to the content of the juvenile case file, shall not be  
24 disseminated by the receiving agencies to any persons or agencies,  
25 other than those persons or agencies authorized to receive  
26 documents pursuant to this section. Further, a juvenile case file,  
27 any portion thereof, and information relating to the content of the  
28 juvenile case file, shall not be made as an attachment to any other  
29 documents without the prior approval of the presiding judge of the  
30 juvenile court, unless it is used in connection with and in the course  
31 of a criminal investigation or a proceeding brought to declare a  
32 person a dependent child or ward of the juvenile court.

33 (b) (1) While the Legislature reaffirms its belief that juvenile  
34 court records, in general, should be confidential, it is the intent of  
35 the Legislature in enacting this subdivision to provide for a limited  
36 exception to juvenile court record confidentiality to promote more  
37 effective communication among juvenile courts, family courts,  
38 law enforcement agencies, and schools to ensure the rehabilitation  
39 of juvenile criminal offenders as well as to lessen the potential for  
40 drug use, violence, other forms of delinquency, and child abuse.





(2) (A) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(B) Any information received by a teacher, counselor, or administrator under this paragraph shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

(C) An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subparagraph (A) of paragraph (2), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district

1 of attendance, who shall transmit the notice received from the  
2 court to the superintendent of the new district of attendance.

3 (c) Each probation report filed with the court concerning a  
4 minor whose record is subject to dissemination pursuant to  
5 subdivision (b) shall include on the face sheet the school at which  
6 the minor is currently enrolled. The county superintendent shall  
7 provide the court with a listing of all of the schools within each  
8 school district, within the county, along with the name and mailing  
9 address of each district superintendent.

10 (d) Each notice sent by the court pursuant to subdivision (b)  
11 shall be stamped with the instruction: “Unlawful Dissemination  
12 Of This Information Is A Misdemeanor.” Any information  
13 received from the court shall be kept in a separate confidential file  
14 at the school of attendance and shall be transferred to the minor’s  
15 subsequent schools of attendance and maintained until the minor  
16 graduates from high school, is released from juvenile court  
17 jurisdiction, or reaches the age of 18, whichever occurs first. After  
18 that time the confidential record shall be destroyed. At any time  
19 after the date by which a record required to be destroyed by this  
20 section should have been destroyed, the minor or his or her parent  
21 or guardian shall have the right to make a written request to the  
22 principal of the school that the minor’s school records be reviewed  
23 to ensure that the record has been destroyed. Upon completion of  
24 any requested review and no later than 30 days after the request for  
25 the review was received, the principal or his or her designee shall  
26 respond in writing to the written request and either shall confirm  
27 that the record has been destroyed or, if the record has not been  
28 destroyed, shall explain why destruction has not yet occurred.

29 (e) Except as provided in paragraph (2) of subdivision (b), no  
30 liability shall attach to any person who transmits or fails to transmit  
31 any notice or information required under subdivision (b).

32 (f) For purposes of this section, a “juvenile case file” means a  
33 petition filed in any juvenile court proceeding, reports of the  
34 probation officer, and all other documents filed in that case or  
35 made available to the probation officer in making his or her report,  
36 or to the judge, referee, or other hearing officer, and thereafter  
37 retained by the probation officer, judge, referee, or other hearing  
38 officer.

39 SEC. 5. Section 16000.1 is added to the Welfare and  
40 Institutions Code, to read:

1 16000.1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The state has a special duty to care for and protect the  
4 children that the state places into foster care.

5 (2) A judicial order establishing jurisdiction over a child placed  
6 into foster care supplants or limits parental or previous adult  
7 authority.

8 (3) Accordingly, the state assumes an obligation of the highest  
9 order to ensure the safety of children in foster care.

10 ~~(b) It is the intent of the Legislature to do both of the following:~~

11 ~~(1) Abrogate the holding in County of Los Angeles v. Superior~~  
12 ~~Court of Los Angeles: Real Party in Interest Terrell R. (2002) 102~~  
13 ~~Cal.App.4th 627, to the extent that decision affected liability or~~  
14 ~~immunity for injuries to children in protective custody, and to~~  
15 ~~reinstate the judicial interpretation of liability and immunity as it~~  
16 ~~existed prior to that decision.~~

17 ~~(2) Confirm~~

18 *(b) (1) It is the intent of the Legislature that nothing in the*  
19 *decision of the California Court of Appeal in County of Los*  
20 *Angeles v. Superior Court of Los Angeles: Real Party in Interest*  
21 *Terrell R. (2002) 102 Cal.App.4th 627, shall be held to change the*  
22 *standards of liability and immunity for injuries to children in*  
23 *protective custody that existed prior to that decision.*

24 *(2) It is the intent of the Legislature to confirm the state's duty*  
25 *to comply with all requirements under Part B of Title IV of the*  
26 *Social Security Act (42 U.S.C. Sec. 620 et seq.) and Part E of Title*  
27 *IV of the Social Security Act (42 U.S.C. Sec. 670 et seq.) that are*  
28 *relevant to the protection and welfare of children in foster care.*

29 *SEC. 6. Section 16501.1 of the Welfare and Institutions Code*  
30 *is amended to read:*

31 16501.1. (a) The Legislature finds and declares that the  
32 foundation and central unifying tool in child welfare services is the  
33 case plan.

34 (b) The Legislature further finds and declares that a case plan  
35 ensures that the child receives protection and safe and proper care  
36 and case management, and that services are provided to the child  
37 and parents or other caretakers as appropriate in order to improve  
38 conditions in the parent's home, to facilitate the safe return of the  
39 child to a safe home or the permanent placement of the child, and  
40 to address the needs of the child while in foster care. A case plan

1 shall be based upon the principles set forth in this section and shall  
2 document that a preplacement assessment of the service needs of  
3 the child and family, and preplacement preventive services, have  
4 been provided, and that reasonable efforts to prevent out-of-home  
5 placement have been made. In determining the reasonable services  
6 to be offered or provided, the child's health and safety shall be the  
7 paramount concerns. Reasonable services shall be offered or  
8 provided to make it possible for a child to return to a safe home  
9 environment, unless, pursuant to subdivisions (b) and (e) of  
10 Section 361.5, the court determines that reunification services  
11 shall not be provided. If reasonable services are not ordered, or are  
12 terminated, reasonable efforts shall be made to place the child in  
13 a timely manner in accordance with the permanent plan and to  
14 complete all steps necessary to finalize the permanent placement  
15 of the child.

16 (c) When out-of-home placement is used to attain case plan  
17 goals, the decision regarding choice of placement shall be based  
18 upon selection of a safe setting that is the least restrictive or most  
19 familylike and the most appropriate setting that is available and in  
20 close proximity to the parent's home, consistent with the selection  
21 of the environment best suited to meet the child's special needs and  
22 best interest, or both. The selection shall consider, in order of  
23 priority, placement with relatives, tribal members, and foster  
24 family, group care, and residential treatment pursuant to Section  
25 7950 of the Family Code.

26 (d) *As used in subdivisions (b) and (c), a home or setting that*  
27 *is "safe" means that the home or setting is free from abuse, as*  
28 *described in Section 11165.5 of the Penal Code.*

29 (e) A written case plan shall be completed within 30 days of the  
30 initial removal of the child or of the in-person response required  
31 under subdivision (f) of Section 16501 if the child has not been  
32 removed from his or her home, or by the date of the dispositional  
33 hearing pursuant to Section 358, whichever occurs first. The case  
34 plan shall be updated, as the service needs of the child and family  
35 dictate. At a minimum, the case plan shall be updated in  
36 conjunction with each status review hearing conducted pursuant  
37 to Section 366.21, and the hearing conducted pursuant to Section  
38 366.26, but no less frequently than once every six months. Each  
39 updated case plan shall include a description of the services that



1 have been provided to the child under the plan and an evaluation  
2 of the appropriateness and effectiveness of those services.

3 ~~(e)~~

4 (f) The child welfare services case plan shall be comprehensive  
5 enough to meet the juvenile court dependency proceedings  
6 requirements pursuant to Article 6 (commencing with Section  
7 300) of Chapter 2 of Part 1 of Division 2.

8 ~~(f)~~

9 (g) The case plan shall be developed as follows:

10 (1) The case plan shall be based upon an assessment of the  
11 circumstances that required child welfare services intervention.

12 (2) The case plan shall identify specific goals and the  
13 appropriateness of the planned services in meeting those goals.

14 (3) The case plan shall identify the original allegations of abuse  
15 or neglect, as defined in Article 2.5 (commencing with Section  
16 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the  
17 conditions cited as the basis for declaring the child a dependent of  
18 the court pursuant to Section 300, or all of these, and the other  
19 precipitating incidents that led to child welfare services  
20 intervention.

21 (4) The case plan shall include a description of the schedule of  
22 the social worker contacts with the child and the family or other  
23 caretakers. The frequency of these contacts shall be in accordance  
24 with regulations adopted by the State Department of Social  
25 Services. If the child has been placed in foster care out of state, the  
26 county social worker or a social worker on the staff of the social  
27 service agency in the state in which the child has been placed shall  
28 visit the child in a foster family home or the home of a relative at  
29 least every 12 months and submit a report to the court on each visit.  
30 For children in out-of-state group home facilities, visits shall be  
31 conducted at least monthly, pursuant to Section 16516.5. At least  
32 once every six months, at the time of a regularly scheduled social  
33 worker contact with the foster child, the child's social worker shall  
34 inform the child of his or her rights as a foster child, as specified  
35 in Section 16001.9. The social worker shall provide the  
36 information to the child in a manner appropriate to the age or  
37 developmental level of the child.

38 (5) When out-of-home services are used, the frequency of  
39 contact between the natural parents or legal guardians and the child  
40 shall be specified in the case plan. The frequency of those contacts

1 shall reflect overall case goals, and consider other principles  
2 outlined in this section.

3 (6) When out-of-home placement is made, the case plan shall  
4 include provisions for the development and maintenance of sibling  
5 relationships as specified in subdivisions (b), (c), and (d) of  
6 Section 16002. If appropriate, when siblings who are dependents  
7 of the juvenile court are not placed together, the social worker for  
8 each child, if different, shall communicate with each of the other  
9 social workers and ensure that the child's siblings are informed of  
10 significant life events that occur within their extended family.  
11 Unless it has been determined that it is inappropriate in a particular  
12 case to keep siblings informed of significant life events that occur  
13 within the extended family, the social worker shall determine the  
14 appropriate means and setting for disclosure of this information to  
15 the child commensurate with the child's age and emotional  
16 well-being. These significant life events shall include, but shall not  
17 be limited to, the following:

18 (A) The death of an immediate relative.

19 (B) The birth of a sibling.

20 (C) Significant changes regarding a dependent child, unless the  
21 child objects to the sharing of the information with his or her  
22 siblings, including changes in placement, major medical or mental  
23 health diagnoses, treatments, or hospitalizations, arrests, and  
24 changes in the permanent plan.

25 (7) When out-of-home placement is made in a foster family  
26 home, group home or other child care institution that is either a  
27 substantial distance from the home of the child's parent or out of  
28 state, the case plan shall specify the reasons why that placement is  
29 in the best interest of the child. When an out-of-state group home  
30 placement is recommended or made, the case plan shall, in  
31 addition, specify compliance with Section 7911.1 of the Family  
32 Code.

33 (8) When out-of-home services are used, or when parental  
34 rights have been terminated and the case plan is placement for  
35 adoption, the case plan shall include a recommendation regarding  
36 the appropriateness of unsupervised visitation between the child  
37 and any of the child's siblings. This recommendation shall include  
38 a statement regarding the child's and the siblings' willingness to  
39 participate in unsupervised visitation. If the case plan includes a  
40 recommendation for unsupervised sibling visitation, the plan shall



1 also note that information necessary to accomplish this visitation  
2 has been provided to the child or to the child's siblings.

3 (9) When out-of-home services are used and the goal is  
4 reunification, the case plan shall describe the services to be  
5 provided to assist in reunification and the services to be provided  
6 concurrently to achieve legal permanency if efforts to reunify fail.  
7 The plan shall also consider the importance of developing and  
8 maintaining sibling relationships pursuant to Section 16002.

9 (10) When out-of-home services are used, the child has been in  
10 care for at least 12 months, and the goal is not adoptive placement,  
11 the case plan shall include documentation of the compelling reason  
12 or reasons why termination of parental rights is not in the child's  
13 best interest. A determination completed or updated within the  
14 past 12 months by the department when it is acting as an adoption  
15 agency or by a licensed adoption agency that it is unlikely that the  
16 child will be adopted, or that one of the conditions described in  
17 paragraph (1) of subdivision (c) of Section 366.26 applies, shall be  
18 deemed a compelling reason.

19 (11) (A) Parents and legal guardians shall have an opportunity  
20 to review the case plan, sign it whenever possible, and then shall  
21 receive a copy of the plan. In any voluntary service or placement  
22 agreement, the parents or legal guardians shall be required to  
23 review and sign the case plan. Whenever possible, parents and  
24 legal guardians shall participate in the development of the case  
25 plan.

26 (B) Parents and legal guardians shall be advised that, pursuant  
27 to Section 1228.1 of the Evidence Code, neither their signature on  
28 the child welfare services case plan nor their acceptance of any  
29 services prescribed in the child welfare services case plan shall  
30 constitute an admission of guilt or be used as evidence against the  
31 parent or legal guardian in a court of law. However, they shall also  
32 be advised that the parent's or guardian's failure to cooperate,  
33 except for good cause, in the provision of services specified in the  
34 child welfare services case plan may be used in any hearing held  
35 pursuant to Section 366.21 or 366.22 as evidence.

36 (12) The case plan shall be included in the court report and shall  
37 be considered by the court at the initial hearing and each review  
38 hearing. Modifications to the case plan made during the period  
39 between review hearings need not be approved by the court if the  
40 casework supervisor for that case determines that the



1 modifications further the goals of the plan. When out-of-home  
2 services are used with the goal of family reunification, the case  
3 plan shall consider and describe the application of subdivision (b)  
4 of Section 11203.

5 (13) When the case plan has as its goal for the child a permanent  
6 plan of adoption or placement in another permanent home, it shall  
7 include documentation of the steps the agency is taking to find an  
8 adoptive family or other permanent living arrangements for the  
9 child; to place the child with an adoptive family, an appropriate  
10 and willing relative, a legal guardian, or in another planned  
11 permanent living arrangement; and to finalize the adoption or legal  
12 guardianship. At a minimum, the documentation shall include  
13 child specific recruitment efforts, such as the use of state, regional,  
14 and national adoption exchanges, including electronic exchange  
15 systems, when the child has been freed for adoption.

16 ~~(g)~~

17 (h) If the court finds, after considering the case plan, that  
18 unsupervised sibling visitation is appropriate and has been  
19 consented to, the court shall order that the child or the child's  
20 siblings, and the child's prospective adoptive parents, if  
21 applicable, be provided with information necessary to accomplish  
22 this visitation. Nothing in this section shall be construed to require  
23 or prohibit the social worker's facilitation, transportation, or  
24 supervision of visits between the child and his or her siblings.

25 ~~(h)~~

26 (i) The case plan documentation on sibling placements  
27 required under this section shall not require modification of  
28 existing case plan forms until the Child Welfare Services Case  
29 Management System is implemented on a statewide basis.

30 ~~(i)~~

31 (j) The department, in consultation with the County Welfare  
32 Directors Association and other advocates, shall develop  
33 standards and guidelines for a model relative placement search and  
34 assessment process based on the criteria established in Section  
35 361.3. These guidelines shall be incorporated in the training  
36 described in Section 16206. These model standards and guidelines  
37 shall be developed by March 1, 1999.



1     *SEC. 7. The Legislature finds and declares that the*  
2     *amendments to Section 16501.1 of the Welfare and Institutions*  
3     *Code made by Section 6 of this act are declaratory of existing law.*

O

